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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re ASHLEY W., a Person Coming
Under the Juvenile Court Law.

B239044

(Los Angeles County
Super. Ct. No. CK82788)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

TIMOTHY W.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.

Marilyn Kading Martinez, Juvenile Court Referee. Affirmed.

Rich Pfeiffer, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Navid Nakhjavani, Deputy County Counsel for Plaintiff and Respondent.

Timothy W., father of 17-year-old dependent child Ashley W., appeals the juvenile court's termination of reunification services and the issuance of a restraining order against him. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Timothy W. and Amy W. adopted Ashley W. in 2008 when she was 13 years old. The family had lived in Washington, but Amy W. soon moved to Los Angeles. Ashley W. relocated to Los Angeles in 2009 following allegations that she had been sexually abused by Timothy W. and admissions by Timothy W. to inappropriate contacts with her. A polygraph examination of Timothy W. had been inconclusive, but in questioning after the examination, Timothy W. admitted that "when Ashley was 12, they took showers together. He reported that one time he was in the shower and Ashley came in with her bathing suit on and once when she was nude. He admitted when they were naked, he was 'partially aroused.' He said his penis was 'halfway erect.[']' He also admitted that one time she took her top off so he could 'tickle' her stomach and between her breasts. He also mentioned her crawling into bed with him and she crawled over him to get on the other side of him and she 'smothered him with her breasts' and he might have 'accidentally' kissed them." As a result of this sexual misconduct, Washington's Child Protective Services sent Ashley W. to live with Amy W. in California.

I. Initial Investigation and Commencement of Dependency Proceedings

In June 2010, Ashley W. came to the attention of the Department of Children and Family Services (DCFS) after Amy W. left her in the care of two nonrelative adult men and returned to Washington for medical treatment. Soon after her departure, Amy W. notified Ashley W. that she would be returning to Los Angeles with Timothy W.

Ashley W. alleged that Timothy W. had sexually and physically abused her and that Amy W. had neglected her. Ashley W. was emphatic that she wanted no contact

with Timothy W. She characterized Timothy W. as “obsessed with me,” “[l]ike how an ex[-]boyfriend would be over a girlfriend.” Timothy W. telephoned Ashley W. so frequently that she had to program her phone to reject his calls. Beyond being forced to shower with Timothy W. while his penis was erect, Ashley W. described additional sexually inappropriate conduct by Timothy W.: he disrobed before her and exposed himself to her; commented on her breasts; showed her a film and talked about seeing through the sweater of an actor in the film; and offered that she and a friend could sleep in his bedroom. He had called her a hooker in public and asked her if she was a slut.

Timothy W. claimed that he had not sexually abused Ashley W., though he had made some parenting mistakes. According to Timothy W., the shower incidents had been “[i]nstigated by” Ashley W., who had “dragged” him into her shower on two occasions. While he may have been aroused, he had “a very small penis that has never been much bigger than a small child’s,” so Ashley W. would not have noticed his arousal, and he left the shower upon becoming aroused. Timothy W. claimed the polygraph examination had been administered when he was tired and hungry by an “[a]ggressive confrontational polygraph guy determined to presume and establish guilt beyond all doubt regardless of counter evidence or context of parenting decision or admittance of mistakes during those first weeks of having Ashley.”

As for the tickling, Timothy W. said it was an effort to help Ashley W. attach to him as a parent through touch, and she wanted it. It was Ashley W.’s fault that he had disrobed in front of her—she did not like closed doors.

Timothy W. alleged that Amy W. and Ashley W. had abused him and that this abuse “has far exceeded anything that may have been unintentionally and mistakenly [*sic*] towards Ashley.” He dubbed Ashley W. “an unreliable narrator of her own life story.” While he had made “accidental mistakes,” at the beginning, Ashley W. had “twisted most of those early weeks from her anger at me.”

Amy W. informed DCFS that she wanted to relinquish her parental rights. She confirmed Ashley W.’s account of Timothy W. being obsessed with her and treating her as a girlfriend: “You know I would have to say this[:] I think that Tim’s obsession over

Ashley has more of that flavor than it would a parent[-]child[,] yes. It's just his sheer obsession with her." Amy W. did not, however, believe the obsession to be a sexual one. Amy W. also confirmed that Ashley W. was afraid of Timothy W.: she believed "he was a danger and he was going to come down and kidnap her."

Ashley W.'s mental health history was complicated. Ashley W. reported that she had been prescribed psychotropic medications but did not want to take them; that she had been hospitalized once when depressed; and that she had been diagnosed with schizophrenia, just like her biological mother. It was variously reported that Ashley W. suffered from Post Traumatic Stress Disorder, Oppositional Defiance, and Reactive Attachment Disorder. A Washington social worker told DCFS that Ashley W. had a history of lying and making up stories about people; that she had been emotionally abused by her biological mother; and that she manipulated others and feigned schizophrenia to get her way.

DCFS filed a petition in June 2010 alleging that Ashley W. fell within the jurisdiction of the juvenile court under Welfare and Institutions Code¹ section 300, subdivisions (a), (b), (d), and (g). The juvenile court ordered Ashley W. detained with no contact with her parents. She was placed in a group home.

DCFS advised the court that Ashley W.'s history of false accusations made it difficult to confirm her allegations, but that it appeared to be true that Timothy W. had showered with her and exposed himself to her. DCFS recommended family reunification services, counseling, and parenting education for the parents, with Timothy W. to complete a sexual abuse program. Any visitation, DCFS recommended, should be in a therapeutic setting, at the discretion of Ashley W.'s therapist, and with Ashley W.'s consent.

Timothy W. contacted DCFS to comment on its reports and to propose a course of action. He commended DCFS for cataloguing Ashley W.'s "emotional history, frequent lies and trauma," and said that he would take parenting classes as long as DCFS would be

¹ Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

willing to explore a joint custody arrangement between him and Ashley W.'s former foster mother. "I do need to feel that the DCFS will get behind me on this idea and help to facilitate reunification with some proactive attempts to bring it about. I don't want to spend \$200 for no end or purpose." Timothy W. told DCFS Ashley W. should not be allowed to go "shopping around for parents like she is shopping for fine clothes in a mall." He and the earlier caregiver would effectively raise Ashley W., with Timothy W. focusing on her emotional and intellectual needs and education with the former caregiver offering a "practical common sense approach needed for Ashley to feel secure."

Timothy W. advised DCFS that the year had been "highly traumatic" for him and for Ashley W., and that this was Amy W. and Ashley W.'s fault: "As her father, I take full responsibility for the last year's errors that I had no knowledge of because Amy in collaboration with Ashley pursued a policy of parental alienation throughout and I was excluded from so much of importance. Amy and Ashley reinforced each other's prejudices and I have reason to believe that my wife had a number of sexual liaisons with other men that I am only just now finding out about." Child Protective Services in Washington was also culpable: "Had I had more support from Amy in raising Ashley, or from DCFS agencies in Washington State, my role would have become less involved in response, but I had to perform the maternal and paternal roles instead and was the recipient of Ashley's anger with both parental roles."

At a pretrial resolution conference in late July 2010, Ashley W. requested that the no contact order regarding Timothy W. remain in place. Timothy W. requested monitored visitation. The court found no change in circumstances and ordered that the prior no contact order remain in effect.

II. Interactions with Timothy W.

After mediation, in August 2010, the juvenile court declared Ashley W. a dependent of the court under section 300, subdivisions (b), (d), and (g). Pursuant to the mediated agreement, the juvenile court ordered family reunification services to Timothy W. The court ordered that Ashley W. have contact with her parents in a therapeutic setting. DCFS was to consult with Ashley W.'s therapist and her attorney in determining the appropriate frequency of visits, with the proviso that if DCFS or Ashley W.'s attorney received information that visits should stop, the matter would be walked into court.

In September 2010, Timothy W. asked Ashley W.'s school for an individualized education program (IEP) despite Ashley W. being on the honor roll and taking Advanced Placement classes. Although Ashley W. was only to have contact with Timothy W. in a therapeutic setting, she encountered him when he came to her school for the IEP meeting. Ashley W. became flushed, shook violently, and called the police. The school psychologist wrote that the encounter "appeared to invoke [*sic*] a high level of anxiety in Ashley. She appeared very upset and traumatized. She could not concentrate that day or the next week in her classes and frequently came to speak with" school workers.

As of October 2010, DCFS changed its recommendation regarding contact between Ashley W. and Timothy W. Ashley W. told DCFS in September that she wanted no contact with her father, and Ashley W.'s therapist concurred that there should be no contact at that time.

Ashley W.'s attorney requested that Timothy W.'s right to make educational decisions for Ashley W. be limited. Timothy W. responded with an eight-page justification of the "misunderstanding" at Ashley W.'s school. It was "important for the Court to be aware" that the school had never apologized to him for the events of the day, when he was "humiliated in front of staff and students" by police officers who "handcuffed me *first* and asked questions *after*." The school "should be reprimanded for its failure to protect Ashley from her own delusional conduct on September 13th [the date

of the IEP] and myself from the unwarranted attention of law enforcement. Timothy W. claimed the school incident demonstrated that Ashley W. was a delusional liar being enabled by a therapist and attorney who were not meeting her needs: *“At present, I believe she is being pushed by her legal and therapeutic team towards decisions of a partially delusional nature. Her attempt to make yet another false report to law enforcement following on so dramatically from the first one she made back in July, 2009 that got us into this mess in the first place, along with all of the demonstrably false accusations she has made throughout her time in foster and adopted care, prompts me to be concerned with her level of understanding and emotional cognizance of the choices currently being offered her by both Counsel and therapist. What Ashley’s Counsel and therapist may view as Ashley responding in hyper-vigilant fashion to a perceived and incorrect threat from me, must also be seen by this Court as behavior on Ashley’s part as sadly in congruence with past behaviors exhibited throughout her time in foster care. Most anyone who truly knows Ashley will concur with this assertion and it would be more useful at this point for Ashley to be reprimanded for lying again to law enforcement and her therapy adjusted to discover the root and branch of her distress in all this.”*

Ashley W., too, wrote to the court. She felt that Timothy W.’s appearance at her school was “a violation.” She pointed out that he could have told the school about the no contact order or consulted Ashley W.’s therapist about what to do, but he chose not to. As a consequence Ashley W. felt that “he does not care if I’m uncomfortable or not.” Ashley W. reported having nightmares and being scared of being on campus without a trusted companion. Ashley W. reported to the court that Timothy W. had always been focused on what he wanted rather than on what she felt or wanted, and she was “worried that he is going to be showing up often, even though the school asked him not to after they realized that it hurts me to be around him.” “I am really scared for my safety,” Ashley W. wrote.

At the October 2010 hearing on the motion to limit his educational rights, Timothy W. requested that Ashley W. be sent to a new therapist because he believed that the present therapist was working against family reunification. He blamed a lack of

services and qualified professionals for the “unfortunate events” that had brought them into court that day. Ashley W.’s counsel opposed a change in therapist, as Ashley W. was comfortable with and trusted her therapist.

The court found that Timothy W. should have known that Ashley W. would be at her IEP. “I did,” interjected Timothy W. The court found that he had failed to advise the school that he was not to have contact with Ashley W. outside a therapeutic setting; that the contact with Ashley W. traumatized her; and that Timothy W. “does not take any responsibility for why his daughter is in court.” The court granted Ashley W.’s request to limit Timothy W.’s right to make educational decisions for her. With respect to visitation, the court noted the importance of visitation for family reunification and said, “I had thought by making an order that they occur in a therapeutic setting, that would give Ashley a measure of feelings of safety so that we could have visitation. I don’t think Ashley has that measure of safety at this time and it is [Timothy W.’s] . . . conduct that has interfered with that.” The court ordered monitored visitation in a therapeutic setting once per month, but that “if the therapist finds that they are contrary to the child’s best interest and would likely pose a detriment to her, then that should be brought to my attention.” The court refused to order a change in therapist.

III. Visitation

The first father-daughter visit occurred in November 2010. Prior to the visit, Ashley W. was “very nervous, agitated, and upset.” Her ability to focus and attend class was diminished. Both before and after the visit Ashley W. sought assistance in the school psychologist’s office. The psychologist wrote, “Ashley was clearly distraught and this incident had a negative impact on her education progress and she was not attending classes during this time.”

In December 2010, Ashley W. reported that she wanted to live with Timothy W. The school psychologist wrote that contacts with Timothy W. had a “profoundly negative” effect on Ashley W.’s mood, ability to concentrate, and classroom

participation, and urged “extreme caution” in any reunification: “In my opinion, contact between these two individuals should be monitored in a therapeutic setting and Ashley’s mood and emotional state should be closely monitored. I am very concerned that Ashley does not currently posses[s] the mental stability to make appropriate decisions regarding Mr. W[.] and am concerned she is exhibiting a trauma reaction of attaching to her abuser due to not having any suitable living options.”

In January 2011, the court ordered monitored visitation once weekly in a therapeutic setting. The court gave DCFS discretion to liberalize visits.

IV. Ashley W. Begins Running from Placements

A few weeks later, Ashley W. ran away from her residential placement. She was picked up by the police in Alameda County at the end of February 2011, after she and her purported pimp were engaged in an altercation. Upon her early March return to Los Angeles, Ashley W. refused to be placed in a residential group home. She was placed in a foster home, but ran away two days later and called Timothy W. to come pick her up. Timothy W. kept Ashley W. at his residence for two days until DCFS ordered him to bring her to a DCFS office. There Ashley W. met with a psychologist and the DCFS social worker, and she told them that she would not return to her foster home, that she refused any other foster or group home placement, and that she would not stay in any placement unless she was placed with Timothy W. Ashley W. was involuntarily hospitalized under section 5150 due to attempts to injure herself. DCFS reported to the court that it was concerned about “the extremely unhealthy relational dynamics between Ashley W. and her father. It is recommended that visits should remain restricted to being monitored in a therapeutic setting, until such time when a licensed professional recommends the possibility of liberalizing visitation between Ashley and her father.”

Ashley W. was released from the hospital later in March 2011 and was placed in a group home. On April 8 she ran away. DCFS contacted Timothy W. (who had just returned to Washington) to ask if he knew Ashley W.’s location, and he stated that she

said she was on her way to Washington. Ashley W.'s sister reported seeing her in Washington with Timothy W. but did not know where they were.

V. Amy W. Reappears; Conditions Decline and Ashley W. is Hospitalized

As of the May 3, 2011 court hearing, Ashley W. remained at large. She sent a message to the social worker and the court requesting that she be placed with Amy W. and refusing to come to court unless she could be assured she would not be placed in a group home or foster care. Amy W., who had previously requested that her parental rights be terminated, now wanted custody of Ashley W. In DCFS's view, Ashley W. was in more danger at large than she would be with Amy W., and so it supported placement with her. The court ordered family reunification services for Amy W. and liberal visits, including overnights.

DCFS assessed Amy W.'s home and found it appropriate. Ashley W. told the court she was thrilled to be with Amy W., and the court gave Amy W. custody of her daughter.

From June 6 to June 13, 2011, Ashley W. was hospitalized under section 5585 as a danger to others after she threatened Amy W. Within two weeks of her discharge, Amy W. reported Ashley W. was stealing money from her, staying out late, and lying. She said Ashley W. was expressing suicidal ideation and that she, Amy W., was fed up and unwilling to have Ashley W. in her home anymore.

On June 30, Ashley W. was located in a motel with an older man. Ashley W., desperate to avoid placement in a Rate Care Level 14 facility (the most restrictive non-locked facility level of care available), asked to return to her mother's home or to go to any group home that would allow her to continue to attend her high school. Amy W. refused to take Ashley W. back. Timothy W. wanted custody of Ashley W. but resisted attending individual therapy to address the sexual abuse. Ashley W. acknowledged suicidal ideations and was hospitalized.

DCFS filed a supplemental dependency petition on July 6, 2011, alleging that Amy W. was unable to provide appropriate parental care and supervision due to Ashley W.'s emotional needs. This petition was later sustained and custody removed from Amy W.

DCFS concluded that Ashley W. was a danger to herself and was unable to care for herself, perpetually putting herself in high risk situations. The hospital psychiatrist believed that upon discharge Ashley W. should be placed in a Rate Care Level 14 facility. Ashley W., fearing such a placement, told DCFS that she knew she had to be either emancipated or married to avoid it and that she had identified a person to marry.

By July 19, however, Ashley W. consented to be admitted to Star View Adolescent Center, a Rate Care Level 14 program. Timothy W. asked that DCFS be ordered to assess whether she could be transferred to Seattle. He complained that he had been "blocked" from hospitals and facilities where Ashley W. had been placed. The court referred him to the social worker. Ashley W. did not want to go to Seattle and wanted no contact with her father. He had been leaving her text messages, calling, and sending electronic mail messages up to 20 times per day before she went to Star View. Because there had been no formal request to terminate visitation, the court declined to do so, but ordered that there could be no more than one visit during the month of August. The court indicated that it might set a contempt hearing for Timothy W. based on his violation of court orders.

As of August 2011, Ashley W. requested through counsel that she be placed in a Level 14 facility in Seattle to work on reunifying with Timothy W. The court ordered an assessment of whether she could appropriately be placed in a facility there, and gave DCFS discretion to schedule additional monitored visits with Timothy W. in a therapeutic setting.

VI. Ashley W. Stabilizes and Wants No Contact with Timothy W.

The section 366.21, subdivision (f) hearing was set for November 1, 2011. Ashley W. remained at Star View and was reported to be emotionally stable on her medications. She was participating in individual and group therapy and was described as an “ideal client” in therapy. She had not recently had any behavioral incidents of self-harm or flashbacks. It was expected that Ashley W. could transition to a lower level group home within a month or so. She stated in September and October that she did not want to reunify with her father; that she wanted to remain in California; and that she wished to transition to lower level group homes and to remain there until college and emancipation. Ashley W. asked that efforts to identify placements in Seattle be halted.

Status reports prior to the November 1 hearing contained information about Timothy W.’s recent conduct. While he had been cooperative with DCFS to the extent that he communicated with the social worker, participated in individual therapy, and had contact with Ashley W., he also “contact[ed] Ashley by phone on a frequent, unmonitored basis” and “continue[d] to harass and insult the staff at Star[v]iew for information to the point where he [wa]s interfering with Ashley’s treatment, as he trie[d] to direct the treatment goals.” Although Timothy W. had been ordered to undergo DCFS-approved individual therapy, he refused to see any of the approved treatment providers because “he does not believe the[forensic therapists] are suited to provide therapy for him, as he doesn’t believe this is a forensic case, nor is he guilty of sexual abuse.” Cautioned by the social worker about the court’s requirements and that the chosen therapist was unlikely to be approved, Timothy W. “remained insistent.” DCFS planned to send appropriate court reports to the therapist, and Timothy W. “minimized any such information as ‘junk and nonsense’ because the Department has misconstrued the truth and painted him out to be the bad guy.” Ultimately Timothy W. did undergo individual therapy with a DCFS-approved therapist.

Although only weekly telephone calls had been authorized and they were to be monitored by Ashley W.'s therapist, Timothy W. had unmonitored telephone contact with Ashley W. at least eight times in September and October 2011. During a monitored telephone call on September 13, 2011, Ashley W. had informed Timothy W. that she did not want to return to the Seattle area. According to Ashley W., Timothy W. had responded in a "rude and childish" manner and ended the call. Timothy W. followed with an electronic mail message to the social worker declaring that he would not speak to Ashley W. anymore: "As of today, September 13th, I do not believe that Star View has taught Ashley the skills to live by herself and to be able to treat her family (me, my parents and her birth family) with any common decency. As with so many others in Los Angeles and even elsewhere, the ones who know Ashley the least, nevertheless purport to make the best decisions for her or at least support the silly ones she has an amazing power to make. [¶] I am suspending talking to Ashley, then, until such time as she can learn to speak to this parent with a modicum of respect and decency. It is not that hard—I am not an ogre here and Ashley knows full well the buttons to press to hurt me and the buttons to press to have her so called support team listening on bended knee. Most of the time—as in this case—they are the same buttons, but the effect is always the same—Ashley hasn't learnt yet how to make good decisions that will further her life. [¶] I will review my suspension periodically, but for now, I don't wish to hear from Ashley until I hear that her therapists are teaching her how to respond to her Dad with some respect at least and from Ashley herself that she has taken this on board."

The following day Timothy W. announced by electronic mail that he was "lifting [his] suspension on monitored calls with Ashley."

Ashley W. reported to the social worker that Timothy W. was "out of control," and that she feared he was attempting to interfere with her court case and her treatment. After another unmonitored phone call in which Timothy W. berated Ashley W. for being "mentally 11 years old" and insulted the staff at Star View, Ashley W. reported that it was impossible to have a civilized conversation with Timothy W. DCFS concluded that Timothy W. "has not yet made sufficient strides in his individual therapy to address the

sexual abuse allegations and other case issues. He minimizes this past behavior and continues to obsessively and inappropriately focus all of his energies on Ashley in a very unhealthy manner for Ashley.” DCFS recommended termination of reunification services.

The social worker advised the court that although Ashley W. had previously wavered in her loyalties toward her parents depending on who was more easily manipulated at any given time, her conduct had to be understood in the context of her position as “an emotionally unstable, unmedicated teenager in the midst of various difficult situations, both in and out of different placements.” This had been illustrated most recently, the social worker noted, in her sudden interest in returning to Seattle over a two-week period in August 2011—immediately after her mother had again rejected her and relinquished her rights to reunify with her. Now stabilized at Star View, Ashley W. was consistent in her desire not to reunify with Timothy W. The social worker believed that this desire “is sound and will not waver.”

At the November 1, 2011 hearing, Timothy W.’s counsel asked for a contested hearing concerning termination of reunification services. Ashley W.’s attorney told the court that Ashley W. wanted reunification services to be terminated; that she did not wish to reunify with her father; and that she wanted no contact with Timothy W. because contact with him was detrimental to her and because he violated court orders concerning contact. Timothy W. disrupted the court proceedings with gestures and comments, including an accusation that Ashley W. was lying.

Ashley W.’s counsel advised the court that Ashley W. felt that Timothy W. degraded her in conversations, even in front of the therapist; that he argued with the therapist; and that after these communications Ashley W. was overwhelmed by her feelings. After interacting with her father, Ashley W. was upset, isolated herself in her room, experienced difficulty sleeping, and was unable to participate in her therapy. Counsel emphasized how fragile Ashley W.’s recovery was and asked for no further communication with Timothy W.

The court asked Timothy W.'s counsel whether a contested hearing was really necessary in light of the proximity of the 18-month mark in the case, Ashley W.'s refusal to be in her father's custody, and the absence of other placement options. Timothy W. interjected, "Yes," and his counsel advised the court that Timothy W. was requesting custody of Ashley W. Timothy W. continued to interrupt the court as it discussed the details of the upcoming hearing. He demanded 10 hours for the hearing, interrupted while the court was talking to Ashley W. about her position on issues in the case, "But do you know my position?" and asked to directly address the court. When the court said, "You're represented by counsel," Timothy W. responded, "Fuck me." He interjected other comments and questions into the remaining discussion.

The court issued a no contact order. Timothy W. walked out of the courtroom. The court continued: "I find by preponderance of the evidence that contact between Ashley and her father is detrimental to Ashley. According to the information, he continues to harass and be belligerent to the placement staff. . . . That he acknowledges having unmonitored phone communications with Ashley by calling her on the phone that he should not. That puts her in an uncomfortable position. Ashley is 16 and a half. She's in a Level 14 because she has very significant needs. . . . Ashley has a history of fragility. She is adamant that she does not want to live with her father. She does not want to leave California. Her father lives out of state. The contact by him and her knowledge of his inappropriate contact to her placement staff is sufficiently upsetting to cause her greater turmoil. And, therefore, not only is it detrimental, it is not in her best interest to be subjected to this contact or even have anxiety over the possibility of contact."

VII. Reunification Services are Terminated and a Restraining Order Issued Against Timothy W.

The section 366.22 hearing was held December 20, 2011, and January 3, 2012. Ashley W. continued to do well at Star View and a search was underway for an appropriate future placement. She had experienced one trauma-related flashback in

December that caused a brief destabilization, but she had since restabilized and the transition plan was still in place.

Timothy W. continued to contact Star View, although he maintained he was not trying to reach Ashley W. but to talk to the staff about her. Timothy W. initially agreed to meet with the social worker so that she could clarify the court's no contact order, but he rescinded that agreement based on his attorney's advice.

Ashley W. continued to want no contact with Timothy W. She told the social worker "that she wanted absolutely no information about herself to be communicated to her father. She requests that her next placement remain confidential, so that father cannot harass the staff." Ashley W. also wanted a restraining order. The court received into evidence correspondence from Ashley W.'s therapist, who wrote that due to her bipolar disorder and her extensive history of trauma, Ashley W. required intensive treatment to be safe and successful in the community. Contact with Timothy W., the therapist wrote, disrupted her treatment and caused her emotional distress. Timothy W. respected neither Ashley W.'s wishes to be left alone nor the court's no contact order, "as he continuously attempts to contact her by calling the nurses['] station on her unit as well as [the therapist's] office phone." Ashley W. found this very stressful and feared that Timothy W. would show up at the facility. The therapist confirmed that Ashley W. wished that the address of her next placement be kept from Timothy W. to protect her from unwanted and intrusive contact.

Timothy W. testified at the hearing that the dependency proceedings resulted from Ashley W. "repeat[ing] a story that had been given to her by Washington State in July of 2009" that he abused her; it was "supposed to have been sexual abuse." He characterized the reports in the case, sent to his therapist, as "full of lies" and "a considerably exaggerated view of the case." When asked what conduct of his caused the court to take dependency jurisdiction over Ashley W., he responded, "Statements by Ashley to the court that have not been entirely accurate or have been misunderstood." When asked if he accepted responsibility for what he had done, Timothy W. said that he had accepted responsibility four years earlier, that he realized the implications it could have had for

Ashley W., but that he had not abused her: “I was firmly on a parenting continuum, not on an abusive continuum.” He had read a book about sexual abuse of children but he “didn’t find [him]self in that huge 500-page book.” He acknowledged that his actions were “probably inappropriate,” but asserted that Ashley W. had not been harmed.

Timothy W. denied that he was uncooperative with DCFS. “I feel I’ve been over-cooperative. I feel very frustrated. Ken Prescott, the supervisor, has not made any effort to see me. He actually even put the phone down on my mother when she had called him. And he’s not been prepared to spend more than what he called *an afternoon* on the matter, and he’s not returned one phone call. Noreen [another social worker] saw me for ten minutes. And I don’t see how they can assess what I’ve done on the basis of a ten-minute conversation.”

Timothy W. acknowledged contacting Star View because he was not “getting anywhere” talking with Ashley W.’s therapist. He characterized the no contact order as “stupid.” He said it was a lie that he had been contacting Star View more than once per week and leaving messages asking Ashley W. to call him.

Timothy W. had also written to the social workers about DCFS’s “hysteria” about the no contact order. Timothy W. opined that the order was unhelpful, unnecessary, and stupid. He complained that his attitude was being criticized: few parents with dependency court matters are happy “and you cannot expect us to be or to be sitting here welcom[ing] you and the DCFS into our lives.” “So in conclusion,” Timothy W. wrote, “please do not ask me to either commute to Dependency Court from Nevada or New Mexico or to like the current orders from the court. Both suggestions I consider to be equally ridiculous but again, you have nothing to worry about. Your no contact order is perfectly safe for the present and no need for either of you to have sleepless nights or to be contacting Ashley directly with your concerns or to request of Star View that they have machine guns and police at the ready should I show up.”

The court found by a preponderance of the evidence that return of Ashley W. to her father would create a substantial risk of detriment to her well-being. The court found by clear and convincing evidence that reasonable efforts had been made toward

reunification and ordered that Ashley W. remain a dependent child, suitably placed. The court found her not to be adoptable and that a planned permanent living arrangement was necessary, with the present placement necessary and appropriate to meet her needs.

The court commented on some of the bases for its decision: “Mr. W[.] has fully complied with the court’s orders. He has completed parenting. He has attended individual counseling rather extensively; however, he hasn’t made substantial progress addressing the issues which have brought his daughter before this court.

“As to visitation, he has attempted to maintain regular contact with his daughter historically. It is absolutely correct that he has come to Los Angeles for all of the hearings. . . . Recently, he is barred from having contact with his daughter, but other than the order to bar contact, he has attempted to maintain regular contact with her. [¶] . . . [¶] I will assume that he wanted Ashley, his daughter, to be able to heal from prior traumas and have a stable, nurturing life. What happened next is he himself put a significant wrench into the healing process to the trauma Ashley had experienced before she was adopted.

“By his own conduct, he abused her. He abused her sexually. He still does not take responsibility for that. He still minimizes it. *Probably I didn’t know my boundaries, but I’m not guilty of sex abuse.* That’s his statement.

“This court has no need to find Mr. W[.] guilty. This court only found that Mr. W[.]’s conduct was true by the preponderance of the evidence, and that it posed such a risk by clear and convincing evidence, that Ashley had to be removed from him.

“Mr. W[.] appears to have gained an enormous amount of education and information on mental health needs. I’m impressed by what he has done to educate himself academically. And I emphasize academically.

“Other than that, he does not appear to have any understanding whatsoever of his daughter’s needs and why she is before this court, why she was in need of foster care placement, why she was in need of a Level 14—the highest, most restrictive level of care this court can offer a young person before this court. He doesn’t even believe his own

conduct harmed Ashley. His lack of insight, his lack of understanding support the finding of detriment.

“There was a time when Ashley wanted to be reunited with her father, and there was an active search for placements near where he lives in Washington. But Ashley’s mental health is not stable. She has wavered from what it is she wants. Fortunately, there are professionals involved, including the court, who are going to make decisions on Ashley’s behalf.

“And, Ashley, that’s me, and I’m deciding that you’re not going to return to your father’s care.

“He acknowledges today that he cannot directly meet Ashley’s needs, but he’d like an opportunity to make a plan. I can’t give him that opportunity because I am convinced that he is not sufficiently aware of his daughter’s needs and why she has such needs and how it is he contributed to exacerbating her needs.

“Mr. W[.] argues that in order for Ashley to heal, that they must be meeting together. But it’s by Mr. W[.]’s own conduct that this court made an order that he cannot have contact with her not even in a therapeutic setting. He is the one by his own conduct which caused the court to make such an order.

“He has every right to be frustrated, to be angry, to characterize the court’s orders as stupid, but taking the totality of the evidence, it’s his disregard for whatever is not something to which he agrees.

“By his academic study, he does not believe that Ashley’s therapy is appropriate for her. He’s not a professional therapist.

“[Father’s therapist] gave testimony and submitted reports on Mr. W[.]’s behalf supporting that Mr. W[.] is making progress. [Father’s therapist] has never met Ashley. He has read reports.

“The evidence supports, at least at this time, that Ashley’s contact with her father causes her increasing emotional and mental stress and increasing anxiety which are detrimental to her. She even made a statement to the social worker that her father is making her crazy.

“Ashley cannot be held responsible for allowing unmonitored phone contact between herself and her father. She’s the child. He’s the parent who was given the order [for] monitored contact only. He violated the order.

“Given Ashley’s lack of stability, any progress she might have been making was jeopardized by having contact with her father that was not authorized, that was not therapeutically based.”²

Ashley W.’s counsel asked for the restraining order and a confidential placement. “I know where it is,” Timothy W. announced.

Ashley W.’s counsel said Timothy W.’s knowledge of the placement confirmed the need for a restraining order. DCFS feared Timothy W.’s conduct could jeopardize the placement because the caregivers would not wish to deal with harassing telephone calls. The court granted a temporary restraining order.

The court said, “Mr. W[.] finds it very difficult to accept the court’s order of no contact and the bases for the court’s orders. In fact, in the social worker’s report, . . . more than a month and a half after . . . the no contact order was made—the social worker says: *It is respectfully recommended that the court clearly explain the terms of the no contact order to Father since he refuses to accept the explanation from the Department.* Given that he does not agree with the court’s orders, given that he has violated the spirit of the order by attempting to have at least indirect if not direct contact with Ashley through others who are providing her treatment, I find that he poses a risk to her . . . and I order that he not have any contact with Ashley pending further order of the court and that Ashley’s placements be kept confidential from Mr. W[.]”

Timothy W. claimed he could not understand the court’s instruction to wait to be served with the restraining order; told the court it was biased and prejudiced; and said he could not comprehend the court’s direction to remain in the waiting area outside the courtroom because he had Asperger’s Syndrome. He left the courtroom when the court told him to stop making audible comments under his breath.

2 Formatting from the reporter’s transcript has been retained for clarity.

At the order to show cause hearing concerning the restraining order, Timothy W. submitted to the court two documents he had written. In the first document, he claimed never to have been fairly portrayed in the dependency proceedings. He claimed that his no contest agreement at mediation to the allegations in the dependency petition “was not an admittance of guilt.” Timothy W. wanted the court to stop focusing on events that had occurred in the past: “I feel that for eventual healing to occur between myself and my daughter the Court must look now to the future and not dwell on all of the mistakes and misunderstandings of the past between all of the parties involved.” He repeated several times his contention that the restraining order “does not help Ashley” and instead was the problem: it “maintains the divisive nature of this case beyond what could be considered even remotely healthy for both parent and child.” The restraining order, he contended, prevented Ashley W. from facing her own issues and helped her therapists “enable her delusional behavior instead of prompting my daughter to confront her fears in a safe therapeutic setting.” Although the location of Ashley W.’s placement was supposed to have been kept confidential, Timothy W. named it.

In the second submission, an eleven-page document, Timothy W. blamed his conduct in court on either Asperger’s Syndrome or Borderline Personality Disorder. Although he was not a mental health professional and no mental health professional had diagnosed him with either condition, he had concluded that he had symptoms that were found in both disorders. He contended that the court was “missing, misinterpreting or not taking sufficiently into account” his self-diagnosis; his account of why Ashley W. was removed from his custody in Washington (Ashley W. and Child Protective Services were at fault and his due process rights were violated); and that his sexual abuse of Ashley W., while a mistake, was not abuse and was “not injurious to her.” He blamed every player in the proceeding except himself for why he “become[s] so distressed and miserable in **Court**”: the court was acting on allegations without any validation or basis; Ashley W.’s counsel was “flip-flopp[ing]” between hating him and liking him; the deputy county counsel was “ill-informed, cynical and suspicious beyond what seems reasonable and healthy” as well as unprepared, biased, and prejudiced; the social workers were inflexible

and hostile. The social workers, moreover, were responsible for his failure to reunify with Ashley W., for Ashley W.'s difficulties in treatment, and for turning Star View against him: DCFS "took the meaning of a 'no contact' order to ludicrous and unhelpful extremes, constantly interfering with **Star View Adolescent Treatment Center** to ensure that they did not cooperate with me." He refused to credit Ashley W.'s desire not to have contact with him, stating that the court should have continued reunification services because Ashley W. had previously wished to reunify, even if she did not now. Timothy W. characterized a restraining order as doing "absolutely nothing for the long term health, vitality, and viability of **Ashley**" and implicitly denied that there could be any basis for keeping him from her: "What you are protecting her from seems to be more from herself than from me—from her own distortions and hallucinatory behavior." He concluded by asserting that a "miscarriage of justice" in juvenile court leads to a "traumatic robbery of parenthood," and asked the court to have "a fairer understanding of me as my child's parent and a future path less bedeviled by error, misinterpretations, and sad to report, by too many lies and false accusation[s]."

Timothy W. testified at the hearing. He acknowledged that Ashley W. had run away from her placement and that he had kept her in his care in Washington for six days without contacting the social worker in Los Angeles. When asked whether he had telephoned Ashley W. and sent cards despite the no contact order, he attempted several times to evade the question and then asserted his Fifth Amendment right against self-incrimination. He refused to answer other questions about contacts with Ashley W. in contravention of court orders.

The court granted the restraining order for a period of three years. The court explained its reasoning in detail: "There is no doubt that Ashley has significant mental health needs. Mr. W[.] has attempted to foist himself into her treatment team and tell others how she ought to be treated. And when things don't go his way, he becomes rude. He is unable to follow the court orders because when there are court orders that he shall not have any contact, he did have contact. He calls the court order for no contact unhelpful, and I believe that he calls them unhelpful because he does not believe that

Ashley is going to improve or get well without him being involved. He calls the no contact orders ludicrous. He said although he will abide by them, it will be difficult. And clearly his history shows that it is difficult because he is not able to comply with the no contact order.”

After Timothy W. interrupted, the court continued, “Ashley over the course of the case has sent mixed messages. There were times when she said she wanted to be with her father, but she has come to a realization that she needs to depend on the professionals providing her with services and not on her father. She is almost 17, and she is adamantly clear, and has been for a substantial period of time now, that she does not want contact with her father. She sees it as an interference with her getting better. And the professionals will support that perception. Perhaps the only way to ensure that Mr. W[.] will follow the court’s orders is to actually have a restraining order because he has not violated the temporary order where he has violated prior orders.”

Timothy W. appeals.

DISCUSSION

I. Termination of Reunification Services

Timothy W. contends that the limited visitation imposed throughout the case resulted in unreasonable reunification services for him. We review the juvenile court’s determination that reasonable reunification services were provided under the substantial evidence test. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.)

Although he couches his contention in terms of the reasonableness of the reunification services as a whole, Timothy W.’s primary argument is that all parties ceded control of visitation to Ashley W. and that DCFS effectively “abandoned reunification at the start of the case because no meaningful visitation was ever implemented.” This assessment is inaccurate. The record, as described above, reflects that Timothy W.’s consistently inappropriate conduct was the primary driving force in

the limitation of visitation and that his failure to make progress toward addressing the issues necessitating jurisdiction led to the cessation of reunification services.

Timothy W. ignores or minimizes this conduct and focuses instead on his compliance with court orders regarding therapy and a parenting and anger management program. By all accounts Timothy W. complied with these requirements of the case plan, participated in court-ordered services, and also educated himself about parenting and specific mental health issues. Timothy W. claims he “completely addressed the sexual misconduct portion of the services,” but while he did undergo the required therapy, he also continued to maintain that his sexual abuse of Ashley W. was not abuse and that she was not harmed. When asked what conduct of his led to dependency jurisdiction, he admitted no wrongful conduct and blamed it all on Ashley W.’s statements “that have not been entirely accurate or have been misunderstood.” Timothy W. did not progress significantly toward ameliorating the conditions that brought the family into dependency court. “[S]imply complying with the reunification plan by attending the required therapy sessions and visiting the children is to be considered by the court; but it is not determinative. The court must also consider the parents’ progress and their capacity to meet the objectives of the plan; otherwise the reasons for removing the children out-of-home will not have been ameliorated.” (*In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1143.)

The record demonstrates that reasonable reunification services were provided to Timothy W. Timothy W., however, abused Ashley W. during their contacts and he abused the opportunity to have continued contact with her. He failed to abide by court orders or to cease efforts to dictate Ashley W.’s treatment, and he consistently failed to appreciate that his conduct “exacerbat[ed] her needs.” While visitation is an important part of reunification, no visitation order shall jeopardize the child’s safety. (§ 362.1, subd. (a)(1)(B).) As the court concluded, it was Timothy W.’s conduct that led to the no contact orders, and his behavior and lack of progress toward reunification led to the limitations on visitation and the termination of reunification services. The juvenile court

did not err when it found the reunification services to have been reasonable and terminated them at the section 366.22 review hearing.

II. Restraining Order

Timothy W. also challenges the restraining order. He claims that “the restraining order issued against Father was issued for two reasons: Ashley requested it, and Ashley asserted Father had violated prior court orders when Father had tried to contact Ashley directly and without a monitor at Star View.” Therefore, Timothy W. claims, this court should evaluate Ashley W.’s credibility, because no other evidence of such conduct was asserted by any other witnesses. Timothy W. then extensively attacks Ashley W.’s credibility and concludes that because of her prior lies her statements were “not sufficient evidence on which to base a restraining order.” Timothy W. claims that the other evidence in the case does not support the issuance of a restraining order and concludes that the entire basis for the restraining order was Ashley W.’s lies.

Section 213.5, subdivision (a) authorizes issuance of orders relating to dependent children “enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including but not limited to, making annoying telephone calls . . . , destroying the personal property, contacting, either directly or indirectly, by mail or otherwise coming within a specified distance of, or disturbing the peace of the child or any other child in the household.” We review the decision to issue a restraining order for substantial evidence (*In re Cassandra B.* (2004) 125 Cal.App.4th 199, 210-211) and find that substantial evidence supported the juvenile court’s decision.

Timothy W.’s contention that the only evidence supporting a restraining order came from Ashley W. herself is belied by the record. Contact with Timothy W. had repeatedly been shown to be devastating to Ashley W.’s emotional well being, not only by Ashley W.’s reports but also by other caregivers, to the point where the juvenile court had declared it detrimental for her to be in communication with her father. His consistent

failure to follow court orders with respect to contacting his daughter were well documented in the record and have been discussed extensively above. Timothy W.'s obsessive conduct—his intrusion into her school when only monitored visits in a therapeutic environment had been ordered; the unmonitored and unauthorized telephone calls with Ashley W. herself; his barrage of calls to the nurses' station and the therapist's office; the instances in which Timothy W. endangered any recovery Ashley W. had achieved by his refusal to accept boundaries, whether set by Ashley W. or by the court; even his defiant announcement to the court during the hearing on the restraining order that he already knew where Ashley W. was going to be placed—all demonstrated that Timothy W. sought contact with Ashley W. regardless of her wishes or the harm it caused her. Timothy W. evinced what the court described as "disregard for whatever is not something to which he agrees" and the evidence supported the court's conclusion that he had proven unable to comply with no contact orders. Substantial evidence supported the juvenile court's determination that there was a probability that Timothy W. would violate court orders limiting contact with Ashley W. in the future and that the issuance of the requested restraining order was proper.

DISPOSITION

The orders of the juvenile court are affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

WOODS, J.